Appendix A

OPINIONS BELOW

Opinion of the Court of Common Pleas of Philadelphia County, Pennsylvania, Sur Defendants' Preliminary Objections and Order

Before Kun, P. J., Hagan and Griffiths, J.

GRIFFITHS, J.

Plaintiffs, firemen and policemen of the City of Philadelphia, brought a mandamus suit against the City to compel their restoration to a forty hour week from a forty-eight hour week, and to compel the payment of back wages since January 7, 1952.

On October 29, 1951 the Mayor of the City approved an ordinance of City Council providing that the standard work week of city employees "shall consist of five work days." By subsequent amendment, effective January 1, 1952, the standard work week was ordained to "consist of forty hours of work." Immediately thereafter Plaintiffs and all other policemen, park guards and policewomen who were then working on a forty-eight hour week, were placed on a forty hour work week.

On January 7, 1952, the effective date of the Philadelphia Home Rule Charter, Plaintiffs and others were ordered by the new city administration to return to a forty-eight hour work week.

The alleged basis for the action by the administration was Emergency Regulation A and Regulation 19 of the Philadelphia Emergency Civil Service Regulations which, it claimed, superseded the ordinance placing Plaintiffs and others on a forty hour work week. This argument was heretofore presented to us by Defendants in Preliminary Objec-

tions. Also argued at that time was the contention that Defendants could not be liable because City Council had made no appropriation of monies for reduction of the work week time.

This Court overruled the objections because they were affirmative defenses and should have been pleaded as such by way of an answer to the Complaint. At the same time, however, Plaintiffs were ordered to amend their Complaint and plead the above issues in order that the case might thereafter be decided on preliminary objections. Therefore, it must be borne in mind that although Plaintiffs have pleaded the questions of appropriation and subsequent repealer legislation, Defendants nevertheless have the burden of proving same.

Defendants now file a second set of preliminary objections in the form of a demurrer as follows: 1. The Complaint does not set forth a cause of action; 2. The ordinances of October 29, 1951 and January 2, 1952 have been superseded by the civil service regulations adopted under and pursuant to the Home Rule Charter, and 3. The Complaint fails to set forth facts sufficient to show appropriations by City Council to cover the cost of a forty hour regular work week for Plaintiffs and others similarly situated.

The third reason is also asserted as a basis for a motion for a more definite statement.

The first reason for demurrer will stand or fall on the other two; therefore we shall not discuss it separately.

In considering the effectiveness of Emergency Regulation A and Regulation 19, the subjects of Preliminary Objection Number 2, Plaintiffs argue, inter alia, 1. the Philadelphia Emergency Civil Service Regulations were invalid because they were not approved by the Administrative Board as required by Section 7-400 of the Philadelphia Home Rule Charter and 2. an emergency did not in fact exist when the Regulations were promulgated.

We do not see how we can resolve the answers to these two contentions of Plaintiffs on the basis of the pleadings

alone as we would have to do were we to dispose of the case on Defendants' Preliminary Objections. In our opinion evidence will have to be presented at a trial on the merits before we can dispose of this phase of the case.

Defendants' third preliminary Objection, regarding the question of appropriations by City Council presents another problem and if it is established by the pleadings that no such appropriation was made we can determine the legal consequences of such failure. We reiterate that in our opinion the burden of pleading and proving there was no appropriation is upon the Defendants as we regard the same as an affirmative defense.

The operating budget ordinances for the 1952 fiscal program contained a flat appropriation for personal services in the Department of Public Safety or its successors under the Home Rule Charter, including the Police Department, the Fire Department and others in the amount of $31,000,842.26. Similar appropriations under the title "Personal Services" were made by City Council for subsequent years. Defendants contend that the $31,000,842.26 was not in fact sufficient to pay Plaintiffs and similar employees on the basis of a forty hour week. On this point we feel the same cannot be ascertained except upon taking of testimony. Defendants' contention that a forty hour week would compel overtime payments for personal services and that an appropriation for the payment of salaries in general is not the same as an appropriation for the payment of overtime, assumes an answer to the main question favorable to Defendants, viz, that the ordinances providing for a permanent forty hour week were effectively repealed and any work week of less than forty-eight hours would constitute overtime payments.

Since the burden of proof regarding the appropriation question is upon the Defendants we cannot sustain their motion for a more definite statement in this respect by the Plaintiffs.

Therefore we enter the following

ORDER

And now, this 12th day of September, 1955, Defendants' Preliminary Objections 1, 2, 3 and 4 are overruled and Defendants are granted leave to file an answer to Amended Complaint within twenty (20) days from the date hereof.

By the Court
GRIFFITHS, J.

Opinion of the Court of Common Pleas of Philadelphia County, Pennsylvania, Sur Plaintiffs' Motion for Judgment on the Pleadings in Accordance With Supreme Court of Pennsylvania Rule 43

January 24, 1956.

GRIFFITHS, J.

Plaintiffs have appealed from an order of the Court dated October 11, 1955, denying their motion for judgment on the pleadings. Therefore, the Court, pursuant to the requirements of Pennsylvania Supreme Court Rule 43, here sets forth the reasons for dismissing the motion.

The facts of this case, which are more fully set out in an opinion and order of the Court dated September 12, 1955, dismissing Defendants' preliminary objections to Plaintiffs' amended complaint, are these:

Plaintiffs, firemen and policemen of the City of Philadelphia, instituted an action in mandamus against the City to compel their restoration to a forty-hour week from a forty-eight hour week and to compel the payment of certain back wages alleged to be due them.

Plaintiffs base their cause of action on the provisions of an ordinance of City Council dated October 29, 1951, as amended January 1, 1952, which ordinance, inter alia, placed the Plaintiffs on a forty-hour week.

On January 7, 1952, the effective date of the Philadelphia Home Rule Charter, Plaintiffs and others were ordered by the new city administration to return to a forty-eight hour week.

Defendants, in their answer to Plaintiffs' amended complaint, plead two affirmative defenses, namely (1) that Emergency Regulation A and Regulation 19 of the Philadelphia Emergency Civil Service Regulations superseded the ordinance placing Plaintiffs and others on a forty-hour week, and (2) Defendants could not be liable because

City Council had made no appropriation of monies for the reduction of the work week time.

These defenses raise issues of fact, which, in the opinion of the Court, could not be disposed of by preliminary objections, as the Defendants requested heretofore, or by a motion for judgment on the pleadings, as the Plaintiffs here request.

One illustration of this is found in paragraph 26 of Plaintiffs' amended complaint wherein Plaintiffs aver that the Philadelphia Emergency Civil Service Regulations, Supplemental Emergency Regulation A and Civil Service Regulations dated December 30, 1952 (upon which Defendants rely) were invalid in that no emergency existed affecting public health or safety which authorized the suspension of the requirements of Section 8-407 of the Philadelphia Home Rule Charter. Defendants deny this allegation in their answer.

Having found that the complaint raises issues of fact which are denied in the answer and having further found that such denials were specific and not general the Court dismissed Plaintiffs' motion for judgment on the pleadings.

By the Court
GRIFFITHS, J.

Final Order of the Court of Common Pleas of Philadelphia County, Pennsylvania

Oct. 11, 1955, Plaintiffs' motion for judgment against defendants on the pleadings is dismissed.

Opinion of the Supreme Court of Pennsylvania sur Appeal from Order of the Court of Common Pleas Dismissing Plaintiff's Motion for Judgment

(Reported at 385 Pa. 424)

OPINION BY MR. JUSTICE ARNOLD, June 25, 1956:

This action of mandamus was brought against the city and its officials by plaintiffs, who are members of the city's police department. They seek restoration of a 40 hour week, as against the 48 hour week they now work, as well as back wages. The court below denied their motion for judgment on the pleadings, hence this appeal.

Plaintiffs' action rests on two ordinances effective October 29, 1951, and January 2, 1952, which established a 40 hour work week for city employes. Prior to the first of these ordinances, on April 17, 1951, the electors had approved the Home Rule Charter which became effective on January 7, 1952. By authority of provisions of the Charter, civil service regulations provided that wages and hours of employes were to be the same as they were on October 26, 1951. For these plaintiffs the work week on that date was 48 hours.

In their answer to the complaint defendants averred that the civil service regulations superseded the ordinances; that the city had made no appropriation providing funds for payment of the overtime pay claimed; that the action is res adjudicata; and that their action is barred by laches.

As the court below determined, the pleadings raised issues of fact requiring a trial on the merits. If actually established by proof, the failure of the city to provide an appropriation of funds, out of which the claims for wages could be paid, bars recovery: *O'Donnell v. Philadelphia*, 385 Pa. 189, 122 A. 2d 690; *Thiel v. City of Philadelphia*, 245 Pa. 406, 408, 91 A. 490; *Leary v. Philadelphia*, 314 Pa. 458, 472, 172 A. 459. The basis for these decisions rests upon statutes specifically applicable to the City of Phila-

delphia,[1] which provides that no recovery can be had or liability imposed unless there has been an appropriation to provide funds for payment. Provisions of the Home Rule Charter likewise so provide.[2]

The Charter provides, in Section 11-101, that "it shall supersede . . . all ordinances of the City, affecting the organization, government and powers of the City . . . [where they are] inconsistent or in conflict with this charter." Under the Charter wages and hours are fixed by civil service regulations, not by council: See sections 4-300, 7-400, 7-401. This defense was averred by defendants; and plaintiffs' averments of improper procedure, denied by defendants, were not sufficient to allow judgment without proof. Likewise, whether or not the alleged defenses of res adjudicata and laches existed, could be adjudicated only after submission of proof. Judgment on pleadings will be entered only where the case is clear and free from doubt: *Kittaning Coal Company v. Moore*, 362 Pa. 128, 132, 66 A. 2d 273. Under no circumstances could judgment on these pleadings be justified.

As to other matters raised on this appeal, see *O'Donnell v. City of Philadelphia*, supra.

Judgment affirmed.

Mr. Justice BELL and Mr. Justice MUSMANNO dissent.

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[1] See Act of 1858, P. L. 385; Act of 1885, P. L. 37; Act of 1919, P. L. 581.

[2] See Section 6-104; 6-106; 6-400(a); 8-200(3).

Findings and Verdict of the Court of Common Pleas of Philadelphia County, Pennsylvania

1. This is an action in mandamus brought by certain uniformed employees of the City of Philadelphia to compel the City to establish a 40-hour regular work week for all such personnel and to compel the City to pay overtime wages for all hours over 40 hours per week worked by such personnel since January 7, 1952.

2. On October 29, 1951, and January 2, 1952, City Council enacted ordinances which purported to establish a 40-hour regular work week for all City employees, commencing on January 1, 1952.

3. On January 7, 1952, the provisions of the Philadelphia Home Rule Charter became effective and a Civil Service Regulation was promulgated. This regulation provided that wages and hours of work of City employees should be the same as they had been on October 26, 1951.

4. The aforesaid regulation, known as Supplemental Emergency Regulation A, was proper and valid and superseded the Ordinances of October 29, 1951 and January 2, 1952.

5. Supplemental Emergency Regulation A was replaced by Section 4(a)(3), of Regulation XIX, effective January 1, 1953. This regulation was also valid.

6. There was no appropriation in the 1952 budget which was intended by Council to be, or which in fact became, available for the payment of overtime work of plaintiffs or those in the same class as plaintiffs.

7. Plaintiffs have failed to prove by the applicable standard of proof their right to relief which they seek in this action.

8. The defendants are entitled to a verdict in their favor.

THEREFORE, the plaintiffs' complaint is dismissed and the court enters a verdict in favor of the defendants.

By THE COURT:
/s/ DOTY, J.

October 28, 1964

Opinion and Judgment of the Court of Common Pleas of Philadelphia County, Pennsylvania

EN BANC 3/14/66

This matter is presently before the Court for consideration of plaintiffs' exceptions to the findings and verdict rendered by the trial judge sitting without a jury. After a careful consideration of the entire record, the briefs filed, oral argument presented and the applicable law, we are of the opinion that these exceptions must be dismissed.

The historical background out of which this case arises may be summarized as follows: An ordinance enacted by City Council of Philadelphia and approved by the then Mayor Bernard Samuel on October 29, 1951 (as amended on January 2, 1952) provided that effective January 1, 1952, the standard work week of the employees of the City of Philadelphia would be reduced from 48 hours to 40 hours; on January 7, 1952, when Mayor Joseph S. Clark assumed office, the Philadelphia Home Rule Charter, which had been approved by the electorate on May 17, 1951, went into effect; pursuant to the provisions of the Charter, Civil Service Supplemental Emergency Regulation A was immediately promulgated directing that wages and hours of work of City employees were to be the same as they had been on October 26, 1951, thereby purporting to restore the 48 hour standard work week; this emergency regulation was made permanent on January 1, 1953, by Regulation XIX.

In 1955 this suit in mandamus was instituted by plaintiffs, who are members of the Police Department of the City of Philadelphia, to compel the City to establish a 40-hour regular work week for policemen and park police and to compel the City to pay overtime wages for all hours in excess of forty hours per week worked by such personnel since January 7, 1952. The basis of the action is the contention that both Emergency Supplemental Regulation A and Regulation XIX are invalid and, hence, did not rescind the forty-hour work week imposed by the 1951 Ordinance.

Following trial the Court concluded: that both regulations are valid and effectively supersede the 1951 ordinance, that City Council had not included any appropriation in the 1952 budget overtime pay for plaintiffs or for other city employees in the same class as plaintiffs and the Court dismissed the complaint and entered a verdict for defendants.

Plaintiffs attack the validity of the emergency regulation and Regulation XIX on the grounds that: (1) they were not approved by the Administrative Board; (2) they were not advertised adequately to inform the public of their importance; (3) there was no emergency affecting public health and safety to justify promulgation of emergency Regulation A; and (4) the regulations are unconstitutional in that they are class legislation, which discriminates against policemen.

We are of the opinion that there is absolutely no substance to any of these contentions. With regard to the first contention, the record clearly reveals that the Administrative Board did in fact approve both regulations and that the action of the Board was taken with all of the pertinent facts before it. The record also reveals that there was proper and adequate advertising in regard to these regulations, which met the requirements of the charter.

With regard to the contention that there was no emergency affecting public health and safety to justify promulgation of the emergency regulation in question, the evidence presented at trial amply warrants the conclusion that such an emergency did exist. Had the forty-hour work week for all City employees remained in effect for any period of time beyond January 7, 1952, the attendant pay schedules would have quickly drained the City Treasury and jeopardized the normal and necessary services provided by the City to the public. There can be no doubt that these conditions constituted such a emergency as would justify the promulgation of the regulation in question.

Finally, the contention that the regulations are discriminatory against policemen and therefore unconstitutional in our view is utterly devoid of merit. We know of no law which would divest a municipality of its prerogative to

set hours and wages for employees according to the services they provide. A contrary holding would seriously hamper the City in maintaining propitious employment practices.

Our conclusions are fully supported by the decision in O'DONNELL v. PHILADELPHIA, 385 Pa. 189 (1956), which in our opinion squarely rules the instant matter. In O'DONNELL it was held that the same regulations here under consideration, namely, Emergency Supplemental Regulation A and Regulation XIX had effectively re-imposed a 48-hour work week on all City employees commencing January 7, 1952. The Supreme Court further concluded that since there had been no appropriation made by City Council for the year 1952 to make overtime payments, no recovery could be had for hours worked by City employees beyond the 40-hour week. We find nothing in the case at Bar by way of evidentiary fact or legal argument, which impels us to a different conclusion.

It is important to note also the 9-year lapse between the date of institution of suit and the date of trial. This lapse resulted from plaintiffs' failure to diligently prosecute the action. It is well settled in a long line of cases that it is a plaintiff's duty to prosecute his action with diligence. (See, e.g., ULAKOVIC v. METROPOLITAN LIFE INSURANCE COMPANY, 339 Pa. 571 (1940); ALKER v. PHILADELPHIA NATIONAL BANK, 372 Pa. 327 (1953). Plaintiffs' failure to move this case forward would so inflate the magnitude of any judgment to be rendered in their favor as to offer catastrophic financial consequences to the City of Philadelphia. Moreover, the administrative labors that would be involved in retracing the hours of work for each policeman since 1952 obviously would be ruinous to the City, if not totally insuperable.

Accordingly, plaintiffs' exceptions are dismissed and judgment for the defendants entered on the verdict.

By THE COURT:
/s/ SPORKIN, J.
/s/ GRIFFITHS, J.
/s/ DOTY, J.

Opinion of the Supreme Court of Pennsylvania

OPINION BY MR. JUSTICE ROBERTS, June 29, 1967:

This is an appeal from the judgment of the Court of Common Pleas No. 2 of Philadelphia County entered March 14, 1966 dismissing exceptions of plaintiffs and entering judgment for defendants on the verdict in an action of mandamus. Plaintiffs are certain policemen, crime investigation officers and retired policemen on their own behalf and on behalf of all police and park police similarly situated. Defendants are the City of Philadelphia, the mayor and other city officials. The action from which this appeal arises was instituted in 1955 to compel the city to pay plaintiffs at overtime rates for working more than a five-day, 40-hour work week since January 7, 1952 and to restore a five-day, 40-hour work week for all city policemen and park police.[1]

Prior to October 29, 1951 Philadelphia police were on a six-day, 48-hour work week schedule. On that day an ordinance was adopted, effective January 1, 1952, establishing a five-day work week for city employees, and authorizing the mayor to execute an agreement with the American Federation of State, County and Municipal Employees, District Council No. 33. The agreement authorized provided that the regular work week for the union's employees should consist of a five-day, 40-hour work week, that overtime beyond eight hours in any day or beyond five days any week should be paid for at the rate of time and one-half and that work performed on Sunday should be paid for at double time. On January 2, 1952, the ordinance of October 29, 1951 was amended to provide that on and after January 1, 1952 the standard work week of all city employees, including police, be in accordance with the 40-hour plan described above. Thus, effective January 1, 1952, police and park

[1] In a previous appeal in this case, *Baxter v. Philadelphia*, 385 Pa. 424, 123 A. 2d 634 (1956), this Court sustained the judgment of the court below denying plaintiffs' motion for judgment on the pleadings.

police of the city were placed on a work week schedule of 40 hours.

On January 7, 1952, Philadelphia's Home Rule Charter, which had been adopted by the electorate in the spring of 1951, came into effect and a new city administration was inducted into office. On that same day, the new Civil Service Commission, appointed under the charter, promulgated Supplemental Emergency Civil Service Regulation A. This regulation provided that effective January 7, 1952 the hours of work, the rates of pay and determination of compensation of all city employees should be as legally established on October 26, 1951. Thus, following adoption of this regulation, policemen and park police were, in fact, returned to a six-day, 48-hour work week. Finally, it must be noted that effective January 1, 1953 the Civil Service Commission adopted another regulation which continued in effect the six-day, 48-hour week for police and park police.[2]

The instant action was instituted by plaintiffs to compel a restoration of the 40-hour week and to obtain payment pursuant to the provisions of the ordinance of January 2, 1952 for hours worked by plaintiffs in excess of 40 per week between January 7, 1952 and the present time.[3] In support of their claim plaintiffs urged in the court below and in their appeal that the regulations returning police to a six-day, 48-hour week were invalid: (1) because they were not ber 29, 1951 and an agreement between the city and their adopted in compliance with the procedural requirements of the charter; (2) because they constituted an ineffective attempt to repeal the ordinances of October 29, 1951 and January 2, 1952; (3) because they violate Pa. Const. Art. III, §7 by granting special privileges to city employees (i.e., unionized employees of the former Public Works Depart-

[2] Following appropriations therefor by City Council, the regular work week of Philadelphia's police was reduced in 1957 to 44 hours and in 1960 to 42 hours.

[3] The total amount which would be required to compensate plaintiffs in accordance with the ordinance of January 2, 1952 is over $50,000,000.

ment granted a 40-hour week under the ordinance of October 29, 1951 and an agreement between the city and their union) other than police; (4) because they violate the equal protection and due process guarantees of the Constitution of the United States; (5) because they violate constitutional guarantees of the obligation of contracts.

In findings of fact affirmed by the court en banc, the trial judge concluded that Supplemental Emergency Civil Service Regulation A and the subsequent regulation of January 1, 1953 validly superseded the ordinances of October 29, 1951 and January 2, 1952 and that there was no appropriation by City Council in the 1952 budget which "was intended by Council to be or which in fact became, available for the payment of overtime work of plaintiffs or those in the same class as plaintiffs." The court en banc, in its opinion affirming the findings of fact of the trial judge, went on to conclude in its opinion that appellant's constitutional claims were completely devoid of merit.

On this appeal, in addition to reasserting claims mentioned above, plaintiffs complain that the court below erred in: (1) admitting certain evidence tending to show the procedural validity of the adoption of the civil service regulations; (2) admitting the testimony of the Deputy Finance Director and Personnel Director as to the additional funds it would cost the city if police were put on a 40-hour, rather than a 48-hour week; (3) admitting evidence of the mayor's budget requests for the purpose of showing that the lump sum appropriations by council were not intended to cover the additional cost of reducing hours of work for police; (4) limiting plaintiffs' counsel to thirty minutes of oral argument plus five minutes of rebuttal before the court en banc.

At the outset it should be noted that plaintiff's assertion that the civil service regulations here involved constituted an invalid attempt to repeal prior ordinances of City Council is groundless. In *Ebald v. Philadelphia*, 7 Pa. D. & C. 2d 179 (C.P. Phila. 1956), aff'd per curiam on the opinion of the court below, 387 Pa. 407, 128 A. 2d 352 (1957), it was

recognized that the Philadelphia Home Rule Charter vests in the administration sole responsibility for prescribing civil service regulations, even to the extent of superseding inconsistent statutes of the General Assembly. Indeed, in *Ebald* the court observed: "Since it is evident that the framers of the Home Rule Charter intended matters affecting personnel administration to be governed exclusively by civil service regulations, a supporting ordinance of city council not only becomes unnecessary but would be invalid as in derogation of the powers vested by the charter in the Personnel Director and the Civil Service Commission. . . ." (Citation omitted.) 7 Pa. D. & C. 2d at 183-84.[4]

It should also be noted at the outset that plaintiffs are incorrect in their belief that the city had the burden of proving the validity of the civil service regulations. This view plaintiffs base on the contention that the regulations constituted an implied repealer of the ordinances of October 29, 1951 and January 2, 1952 and the doctrine that implied repeals are an affirmative defense. Because of our view that the Charter explicitly took from City Council the power to legislate with regard to the civil service matters covered by the regulations here in question, we do not consider that the regulations may be properly characterized as an implied repealer. Hence, we believe the normal presumption of validity attached to the regulations[5] and that plaintiffs therefore had the burden of showing their invalidity.

Plaintiffs' claim that Supplemental Emergency Civil Service Regulation A of January 7, 1952 and the regulations of January 1, 1953 were not adopted in compliance with the procedural requirements of the Charter is based on the

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[4] Cf. *O'Donnell v. Philadelphia*, 385 Pa. 189, 192, 122 A. 2d 690, 691 (1956); *American Fed'n of State, County and Municipal Employees, Dist. Council No. 33 v. Philadelphia*, 83 Pa. D. & C. 537 (C. P. Phila. 1952).

[5] E.g., *Review Committee, Venus VII v. Wiley*, 275 F. 2d 264, 272 (8th Cir.), cert. denied, 363 U. S. 827, 80 S. Ct. 1597 (1960); *People ex rel. Colletti v. Pate*, 31 Ill. 2d 354, 201 N. E. 2d 390, 393 (1964).

following alleged defects: (1) the regulations were not approved by the Administrative Board as required by §7-400 of the charter; (2) there was no emergency "affecting the public health or safety" within the meaning of §8-407 of the charter justifying the action of the mayor in making the regulations immediately effective instead of deferring their effectiveness for the thirty day period required by §8-407; (3) that the regulations were void for failure adequately to advertise them. We consider first plaintiffs' attacks on the procedural regularity of the regulation of January 7, 1952 since, if that regulation were valid, the validity of the later regulation, which imposed the same hours of work, is immaterial to the outcome of this litigation, because the earlier regulation would merely have remained in effect.[6]

Plaintiffs' contention that the regulation of January 7, 1952 was not approved by the Administrative Board rests solely on the ground that the city did not present the best evidence of the approval. From the record it appears that the city called as a witness the present Secretary of the Administrative Board. In the custody of the secretary was the official minute book of the board. The secretary testified to the approval of the regulation from the contents of the minute book. On cross-examination plaintiffs' attorney elicited

[6] In this litigation plaintiffs have earnestly attacked the validity of two other regulations promulgated by the Civil Service Commission at the beginning of 1952. These regulations are known as Regulation XIX and Regulation XXVII, §2. It is completely unnecessary for us to consider either of these attacks. Regulation XIX merely directs the Personnel Director to perform duties prescribed by Article VII of the Philadelphia Home Rule Charter. Hence, whether or not Regulation XIX is valid, the Personnel Director had a valid basis in law for the performance of the duties imposed by the regulation. Regulation XXVII, §2, which purported to place in effect the work and pay plan established by the ordinance of January 2, 1952 and which was specifically superseded by Supplementary Emergency Civil Service Regulation A, is totally irrelevant to the injury complained of by the plaintiffs in this litigation and hence the validity of Regulation XXVII, §2 need not be considered by us.

from the secretary the information that all the minutes in the book including the approval of the regulation were in mimeographed form. Because of their mimeographed form, plaintiffs' attorney urges, in effect, that there must have been "an original" and that failure of the city to produce this original or to satisfactorily explain nonproduction made the proffered document inadmissible.

There are two answers to plaintiffs' assertion with respect to the best evidence rule. The first is that the mere fact that mimeographs are made from a stencil does not indicate whether that stencil or a previous draft (if it existed at all) were approved by the Administrative Board as the minutes. It is just as likely that the minutes only became official in their mimeographed form. In other words, the fact that the contents of the official minute book are in mimeographed form fails to indicate with any certainty that better evidence, i.e., "an original" exists. This Court has maintained for well over a century that the failure of a document to indicate the existence of better evidence prevents that document's exclusion from a judicial proceeding under the best evidence rule. *Western Union Tel. Co. v. Stevenson*, 128 Pa. 442, 454, 18 Atl. 441, 442 (1889); *Cutbush v. Gilbert*, 4 S. & R. 550, 555 (Pa. 1818). The second answer to plaintiffs' argument is that our law specifically makes admissible the official minutes of a political subdivision of the Commonwealth, when as here, they are presented to the court by their official custodian, *Roland v. Reading School Dist.*, 161 Pa. 102, 28 Atl. 995 (1894); see Act of September 26, 1951, P. L. 1458, §1, as amended, Act of May 15, 1963, P. L. 35, §1, 28 P.S. §141 (Supp. 1967).

The emergency "affecting the public health or safety" upon which Mayor Clark relied in declaring the regulation of January 7, 1952 effective immediately resulted,[7]

[7] In their brief on appeal, plaintiffs complain that the court below erred in permitting the city to introduce into evidence a photostatic copy rather than the original of the mayor's declaration of the emergency. This claim is foreclosed by plaintiffs' specific and explicit waiver of this objection in the court below. Record at 481a.

in the city's view, from the failure of council to appropriate the funds required to maintain under the 40-hour work week plan the level of police coverage existing prior to January 1, 1952. This was because the outgoing City Council, which had put into effect the 40-hour plan by the ordinances of October 29, 1951 and January 2, 1952, had failed to appropriate for the ensuing fiscal year sufficient funds to maintain the level of police coverage.[8] Thus the city contends the mayor was justified in declaring the emergency because of the sudden twenty percent drop in coverage that a reduction from a 48 to a 40-hour work week, without additional appropriations, would have entailed.

Plaintiffs' reply to the city's justification of the declaration of the emergency rests essentially on the testimony of Mr. Samuel Rosenberg and of certain policemen. In his capacity as Director of Public Safety, Mr. Rosenberg had supervision over the Philadelphia police for the four years ending January 7, 1952. Mr. Rosenberg testified, and it was stipulated by opposing counsel that certain policemen would testify to the same effect, that during the one week beginning January 1, 1952, when the police work week was in fact reduced from 48 to 40 hours, no problems were experienced and no emergency affecting the public health or safety arose. Plaintiffs seek to draw from this testimony and from the absence in the record of testimony on

[8] During the course of this litigation plaintiffs have strenuously asserted that the funds appropriated by City Council were sufficient to cover the cost of the reduction of the police work week from the 48 to the 40-hour plan. All but one of the plaintiff's arguments in this respect were explicitly rejected by this Court in *O'Donnell v. Philadelphia*, 385 Pa. 189, 193-95, 122 A. 2d 690, 692-93 (1956), a case involving virtually the precise question involved in the instant litigation. Plaintiff's one argument not covered by *O'Donnell* that the funds were available in unexpended appropriations for personal services in the police department is refuted by the simple arithmetical fact that in no year mentioned did the unexpended funds even approach 50% of the difference between what would have been required by the 40-hour work plan and the amount expended under the existing pay plan.

behalf of the city from any police source a conclusive refutation of the city's position. Indeed, plaintiffs assert that the court below was required to accept the conclusion of their witnesses because the city's testimony from the Personnel Director and Deputy Finance Director to the effect that the reduction in work would have reduced coverage was incompetent because not from witnesses qualified to express an opinion on matters involving police administration.

In considering the plaintiffs' argument with respect to the declaration of an emergency we have been guided by certain principles. To begin with we believe that §8-407 of the Charter, by vesting the mayor with the power to declare an emergency, imposes a heavy burden on any party who wishes to attack the validity of this declaration. We also believe the validity of the declaration should be controlled by the situation as it reasonably appeared to the mayor on January 7, 1952, rather than as it presently appears with all the advantages which hind-sight may provide. Similarly, we believe that reliance by the mayor on the appraisal of the situation by financial and personnel experts was perfectly reasonable and hence we reject plaintiffs' claim that their testimony at trial should have been excluded as incompetent. After all, the mayor might reasonably have declined to rely on the view of the police themselves, given the extent of their material interest in the matter. Finally, it must be borne in mind that the trial judge, affirmed by the court en banc below, chose to accept the city's rather than the plaintiffs' contention with regard to the emergency. Such a finding, insofar as it involves a question of fact, has the effect of a jury's verdict and will not be disturbed on appeal if based on sufficient evidence, e.g., Schofield v. Crossman, 420 Pa. 196, 216 A. 2d 455 (1966).

Against the background of these principles, we think that there can be little doubt of the propriety of the declaration of the emergency. As the able brief of the city states,

it is a matter of simple arithmetic that the shift from a 48 to a 40-hour week without a corresponding appropriation would have reduced the number of police manpower hours by twenty percent. This, in turn, we believe, the new administration could, in the circumstances, reasonably have concluded would result in a reduction of police coverage of corresponding magnitude. It takes little imagination to suggest that in a metropolis like Philadelphia such a sudden reduction in coverage posed dangers to the public safety. And the testimony of police, even if believed, that no problems were experienced during the single week at the beginning of 1952 when the police work week was reduced from 48 to 40 hours does not refute this suggestion. For since part of the value of police coverage lies in deterrence, it may well be that, although the initial reduction failed to have an immediate adverse effect on public safety, a reduction persisted in for weeks or months might have become apparent to criminal elements and hence invited a dangerous increase in their activity.

Plaintiffs' contention that the regulation of January 7, 1952 was invalid because inadequately advertised need not detain us long. Section 8-407(b) of the charter requires only that: "The Department of Records shall give public notice of such filing by advertising in the three daily newspapers of the City having the largest paid circulation the fact that regulations relating to a particular subject have been filed with it, and that any person affected thereby may request a hearing."

The advertisement inserted by the city in the three daily newspapers of Philadelphia having the largest paid circulation was as follows: "Notice is hereby given, pursuant to Section 8-407(b) of the Philadelphia Home Rule Charter adopted by the Electors April 17, 1951, that on January 7, 1952, Philadelphia Emergency Civil Service Regulations and Supplements A, B, C and D were filed with the Department of Records, Room 184, City Hall, where they will be available for public inspection for thirty days.

Any person affected thereby may request a hearing by presenting to the Department of Records a written request therefor. By reason of the emergency affecting the public health and safety, these Emergency Regulations and Supplements thereto became effective January 7, 1952, by Order of the Mayor, Joseph S. Clark, Jr."

We believe this advertisement was adequate to put public employees on inquiry that matters affecting their conditions of employment had been touched upon by the regulations. Plaintiffs fail to cite any authority which suggests that more was required. Moreover, it is difficult to believe that Philadelphia police were not aware of the effect of the regulation of January 7, 1952 since the work week of all was immediately affected.

The lack of merit in plaintiffs' attack on the regulation of January 7, 1952 under equal protection and due process guarantees is suggested by the fact that their only citation of authority is extremely general language from a case involving an inter-racial cohabitation statute.[9] Essentially plaintiffs' position is that the regulation requiring uniformed employees, including police, to work longer than certain other employees was prima facie discriminatory and that the city failed to meet its burden of presenting a justification for the differences imposed. Plaintiffs are, of course, incorrect as to the locus of the burden; as pointed out above,[10] administrative regulations are presumed valid and the burden is upon the party who maintains otherwise. Moreover, we are convinced that the peculiar sensitivity of the public interests protected by police, especially in the circumstances present in the instant case, justify such differences as existed between treatment by the city of its police and other employees.[11] Indeed, we should be very

[9] *McLaughlin v. Florida*, 379 U.S. 184, 85 S. Ct. 283 (1964).

[10] See note 5 supra and accompanying text.

[11] Cf. *Iben v. Monaca Borough*, 158 Pa. Superior Ct. 46, 43 A. 2d 425 (1945) which suggests that differences between the terms of employment of uniformed and other employees is not constitutionally invalid discrimination.

reluctant to invalidate any measures through which government varies the wages and working conditions of public employees according to the functions they perform. Government must have broad discretion in adjusting incentives for public employment if it is to compete successfully in the labor market to provide adequately and economically services essential to the public weal. It is not difficult to envision the disruption and disservice which would result to the public welfare if the courts were to substitute their relatively uninformed judgment for the sophisticated expertise required in this area.

The reasons which defeat plaintiffs' claim under equal protection and due process guarantees serve equally to refute their claim under Article III, §7 of the Constitution of Pennsylvania.[12] *Schultz v. Philadelphia*, 385 Pa. 79, 122 A. 2d 279 (1956), relied upon by plaintiffs, as well as *Clark v. Meade*, 377 Pa. 150; 104 A. 2d 465 (1954), present situations distinguishable from the instant case. The legislation and Charter amendments struck down under Pa. Const. Art. III, §7 in *Schultz* and *Clark* sought to exempt the office and clerical personnel of some, but not all, former county offices from civil service requirements. It is apparent that the difference in function between office and clerical personnel of one office and another is far less significant than that between police and other municipal employees and thus that *Schultz* and *Clark* do not control the instant situation.

Plaintiffs' last constitutional claim is that the regulations requiring them to return to the 48-hour work week were an impairment of contractual rights and deprived them of vested rights. The authorities reviewed in *Kelly v. Jones*, 419 Pa. 305; 214 A. 2d 345 (1965) completely dispose of this contention.

Finally we consider plaintiffs' claim that they were unfairly limited to thirty minutes of oral argument and five minutes of rebuttal argument before the court below.

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[12] See also *Iben v. Monaca Borough*, note 11 supra.

A matter such as the length of argument is, of course, almost entirely within the discretion of trial courts, see *Commonwealth v. Buccieri*, 153 Pa. 535, 551, 26 Atl. 228, 234 (1893). Moreover, where, as here, no jury was present and plaintiffs' counsel could have presented to the court by way of briefs any contentions he was unable to develop fully in oral argument, we believe that plaintiffs were not prejudiced by the limitation of time on their oral argument.

Judgment affirmed.

Mr. Justice Cohen took no part in the consideration or decision of this case.

Appendix B

STATUTES, ETC., INVOLVED

Philadelphia Home Rule Charter

Section 1-100. *The City's Powers Defined.* Pursuant to Section 1 of Article XV of the Constitution and the Act of the General Assembly, approved April 21, 1949, P. L. 665, of the Commonwealth of Pennsylvania, the City of Philadelphia (hereafter in this charter called "the City") shall have and may exercise all powers and authority of local self-government and shall have complete powers of legislation and administration in relation to its municipal functions, including any additional powers and authority which may hereafter be granted to it. The City shall have the power to enact ordinances and to make rules and regulations necessary and proper for carrying into execution its powers; and such ordinances, rules and regulations may be made enforceable by the imposition of fines, forfeitures and penalties not exceeding three hundred dollars and by imprisonment for a period not exceeding ninety days or by such greater fines, forfeitures and penalties and periods of imprisonment as the General Assembly of the Commonwealth of Pennsylvania may from time to time authorize.

* * * * *

Section 1-101. *Legislative Power.* The legislative power of the City, including any such power which may hereafter be conferred on the City by amendment of the Constitution or by the laws of the Commonwealth of Pennsylvania, shall be exclusively vested in and exercised by a Council, subject only to the provisions of this charter. The Council shall be elected, shall organize and shall function as provided in this charter.

Section 3-702. *Employment and Compensation of Bureau Chiefs and Other Employees.*

* * * * * *

(3) Notwithstanding any other provisions of this chapter, the compensation of persons presently employed by the City shall be according to the presently existing classification and pay scale until civil service regulations are adopted as provided in this charter after which all persons subject to the civil service regulations shall be employed and compensated in accordance with such regulations.

* * * * * *

Section 7-400. *Preparation and Adoption.* The civil service regulations shall be prepared by the Personnel Director. Regulations pertaining to the position classification plan, pay plan, hours of work, holidays and annual vacation and sick leave shall be submitted by the Personnel Director for approval to the Civil Service Commission and Administrative Board. All other civil service regulations shall be submitted by the Personnel Director for approval to the Civil Service Commission only. After the requisite approvals shall have been obtained, the regulations shall be filed by the Personnel Director with the Department of Records, where they shall be available for public inspection for thirty days, and public notice of such filing shall be given as in the case of other regulations.

If any person affected by the proposed regulations or any citizen shall present to the Department of Records a written request therefor, he shall be afforded a public hearing before the Commission. The Commission may after a hearing re-affirm its approval or direct that the regulations be changed but any modification of a regulation which required initially the approval of the Administrative Board shall be submitted to it for approval. The subsequent procedure shall be the same as in the case of other regulations.

* * * * * *

Section 7-401. *Contents.* The regulations shall provide for:

(a) The preparation, maintenance and revision of a position classification plan for all positions in the civil service, based upon similarity of duties performed and responsibilities assumed, so that the same qualifications may reasonably be required for and the same schedule of pay may be equitably applied to all positions in the same class;

(b) A pay plan for all employees in the civil service. Each employee shall be paid at one of the rates set forth in the pay plan for the class of position in which he is employed;

* * * * *

(r) Hours of work, holidays, attendance regulations, and special leaves of absence in the various classes of positions in the civil service;

* * * * *

Section 8-407. *Regulations.* Except as otherwise specifically provided in this charter, every department, board and commission is hereby empowered to make such reasonable regulations as may be necessary and appropriate in the exercise of its powers and the performance of its duties under this charter or under any statute or ordinance. Except as otherwise provided in this charter, in the adoption of regulations, the following procedure shall apply:

(a) The department, board or commission promulgating the regulations shall first submit them for approval to the Law Department and upon receiving such approval file them with the Department of Records where they shall be available for public inspection for thirty days;

(b) The Department of Records shall give public notice of such filing by advertising in the three daily newspapers of the City having the largest paid circulation the fact that regulations relating to a particular subject have been filed with it, and that any person affected thereby may request a hearing;

(c) If any person affected shall present to the Department of Records a written request therefor, he shall be afforded a public hearing before the department, board or commission promulgating the regulations and the City Solicitor. A report of the hearing reaffirming the regulations or modifying them with the approval of the Law Department shall be filed by the department, board or commission with the Department of Records.

The regulations shall become effective at midnight of the thirtieth day after their filing when no hearing has been requested and at midnight of the tenth day after a report has been filed when a hearing was requested and held.

All regulations shall be published and made available for distribution.

Amendments to regulations shall be adopted under the same procedure as the regulations which they amend.

The requirements of this section may be suspended by the Mayor in writing and temporary regulations promulgated in emergencies affecting the public health or safety but any regulations so put into force shall not remain effective unless the procedures otherwise required by this section are complied with forthwith.

* * * * *

Section A-110. *Continuation of Existing Statutes and Ordinances.* The provisions of this charter so far as they are the same as those of existing statutes or ordinances shall be construed as a continuation of such statutes or ordinances and not as new enactments.

EMERGENCY REGULATION XIX

Section 4

(a) Normal work weeks—the basic work weeks for full time employees in the Civil Service are as follows:

(1) General

For all employees, except as provided below, the regular work week shall be 40 hours, consisting of 5 working days, Monday to Friday, inclusive, of 8 hours each.

(2) Clerical and Office

For clerical and office employees the work week shall be not less than 37½ hours nor more than 40 hours and the work day shall not be more than 8 hours as fixed pursuant to sub-paragraph (b) below.

(3) Police and Firemen

For all uniformed and investigatory personnel of the Fairmount Park Commission, police and fire departments, the regular work week shall be 48 hours, consisting of 6 working days of 8 hours each.

(4) Shift employees

The shift employees' work week shall consist of 40 hours, 5 days, 8 hours each, Monday to Sunday, inclusive.

(5) Exceptions

Because of the nature of certain types or classes of work may require deviation from the normal work weeks, including the hours worked per day and/or the numbers of days worked per week, application may be made to the Civil Service Commission for exceptions.

(b) Schedule of Work

The appropriate authority of each office, department, board, or commission shall, within 1 month of the adop-

tion of this regulation, submit to the Personnel Director, in triplicate, for approval, a schedule of normal working hours for each organizational unit. Such schedule shall specify regular weekly hours and/or days of work for each class of employees with exceptions noted, if any. After approval by the Civil Service Commission and the Administrative Board, such schedules remain in effect until further revision has been similarly approved.

Section 5—Holidays

1. Employees who do not work at all on any of the said holidays shall receive their normal pay for the number of hours they would normally have worked on the particular day involved.

2. Any employee required to work on any of the above enumerated holidays, shall, in addition to his normal pay for the day, receive an additional day's pay at his regular rate of pay for the holiday work and double time for all hours worked over 8 hours on that day.

3. Provisions for holiday pay shall not be applicable to uniformed and investigatory personnel of the Police and Fire Departments and Fairmount Park Commission.

* * * * *

REGULATION VI

Section 9. *Overtime.*

For the purposes of computing overtime pay the following provisions shall prevail for employees in the following categories:

(a) *General*—For all employees, except as provided below, time worked in excess of eight hours in any work day and all hours worked on the sixth day in the employee's work week, shall be paid for at the rate of one and one-half times the regular rate of pay. All hours worked on the seventh day in the employee's work week shall be paid for at the rate of two times the regular rate of pay.

(b) *Clerical and Office*—For clerical and office employees whose normal work week is 40 hours, performed during five working days, the above provisions as to payment of overtime rates shall apply. For those clerical and office employees whose normal work week is less than 40 hours but is equal to or more than 37½ hours, a total of 40 hours of actual attendance on duty must be completed before overtime rate at one and one-half times the regular rate of pay shall apply, provided however, that such 40 hours shall not include time worked for which daily or other overtime has been earned. Time worked in excess of eight hours in any work day shall be paid for at the rate of one and one-half times the regular rate of pay, and all hours worked on the seventh day in the employee's work week shall be paid for at the rate of two times the regular rate of pay.

(c) *Police and Fire*—Overtime rates shall not apply to uniformed and investigatory personnel in the Fairmount Park Commission, police and fire departments.

(d) *Shift Employees*—Employees working in shift operations are defined as being any employee or group of employees engaged in an operation for which there is regularly scheduled employment on Saturdays or Sundays, in which employment said employees participate on a fixed or rotating basis. The shift employee work week shall consist of forty (40) hours, five (5) days, eight (8) hours each, Monday to Sunday inclusive.

Overtime is to be compensated for on the following basis:

(1) Any work performed by an employee after completing eight (8) hours of work in any work shift at his regular rate of pay shall be considered overtime. The employee shall be paid one and one-half (1½) times his regular rate of pay for such overtime.

(2) Any work performed by an employee on his or her first regularly scheduled day off shall be overtime.

The employee shall be paid one and one-half (1½) times his regular rate of pay for such overtime.

(8) Any work performed by an employee on his or her second regularly scheduled day off, shall be considered overtime. The employee shall be paid two (2) times his regular rate of pay for such overtime.

* * * * *

Effective January 1, 1953, CIVIL SERVICE REGULATION XIX—HOURS OF WORK, HOLIDAYS, VACATION AND SICK LEAVE, is hereby amended to read as follows:

REGULATION XIX

HOURS OF WORK, HOLIDAYS, VACATION AND SICK LEAVE

Section 4. *Hours of Work.*

(a) *Normal work weeks*—The basic work weeks for full-time employees in the civil service are as follows:

1. *General.* For all employees, except as provided below, the regular work week shall be 40 hours, consisting of five working days, Monday to Friday inclusive, of eight hours each.

2. *Clerical and Office.* For clerical and office employees the work week shall be not less than 37½ hours nor more than forty hours, and the work day shall be not more than 8 hours as fixed pursuant to sub-paragraph (b) below.

3. *Police and Fire.* For all uniformed and investigatory personnel of the Fairmount Park Commission, police and fire departments the regular work week shall be 48 hours, consisting of six working days of eight hours each.

4. *Exceptions.* Because the nature of certain types or classes of work may require deviations from the nor-

mal work weeks, including the hours worked per day and/or number of days worked per week, application may be made to the Civil Service Commission for exceptions.

(b) *Schedules of Work*—The appropriate authority of each Office, Department, Board or Commission shall, within one month of the adoption of this regulation, submit to the Personnel Director in triplicate for approval a schedule of normal working hours for each organizational unit. Such schedules shall specify regular weekly hours and/or days of work for each class of employee with exceptions noted, if any. After approval by the Civil Service Commission and the Administrative Board such schedules shall remain in effect until further revision has been similarly approved.

Section 5. *Holidays.*

The following shall be recognized holidays: New Year's Day, Lincoln's Birthday, Washington's Birthday, Good Friday, Memorial Day, Flag Day, Independence Day, Labor Day, Columbus Day, November Election Day, Armistice Day, Thanksgiving Day and Christmas Day.

(a) *Holiday Pay.*

1. Employees who do not work at all on any of said holidays shall receive their normal pay for the number of hours they would normally have worked on the particular day involved.

2. Any employee required to work on any of the above enumerated holidays shall, in addition to his normal pay for the day, receive an additional day's pay at his regular rate of pay for the holiday work, and double time for all hours worked over eight (8) hours on that day.

3. Provisions for holiday pay shall not be applicable to the professional employees of the Department of Recreation.

(b) *1953 Saturday Holidays*. During 1953 when a holiday falls on a Saturday for an employee not scheduled to work on Saturday, it shall be added to the employee's vacation, provided that the individual department head may at his discretion, schedule the extra day's vacation at some time other than the employee's regular vacation. This provision shall only apply for the year 1953 and shall in no wise be regarded as establishing a precedent for future years.

Section 6. *Vacations.*

(a) All employees with less than one year's employment with the City shall receive five-sixths of one day's vacation with pay for each month of service; all employees with one or more year's employment and less than ten years' employment with the City shall receive two weeks' vacation with pay; all employees with ten or more years' employment with the City shall receive three weeks' vacation with pay.

(b) *Holiday Falling Within Vacation Period*—In the event that one of the enumerated holidays above set forth falls within the vacation period, the employee shall receive the pay for the holiday in addition to such employee's vacation grant.

Ordinances of City of Philadelphia

AN ORDINANCE

Establishing a Standard Work Week for Employees of the City of Philadelphia

Section 1. *The Council of the City of Philadelphia ordains*, That on and after January 1, 1952, the standard work week of the employees of the City of Philadelphia and of the departments, bureaus, boards, commissions and other agencies thereof shall consist of five work days.

Sect. 2. The heads of the various departments, bureaus, boards, commissions and other agencies of the City are authorized and directed to prepare and place into effect work schedules for their respective units in accordance with the provisions of Section 1 of this ordinance.

Sect. 3. The Mayor is hereby authorized and directed to execute and deliver an agreement between the City of Philadelphia and the American Federation of State, County and Municipal Employees, District Council No. 33, Philadelphia and Vicinity, further amending an agreement dated December 7, 1944, between the said parties, which amendatory agreement shall provide that the provisions under "Hours of Work" shall be amended to read as follows:

"Hours of Work

1. The regular work week for the employees shall consist of a regular work week of forty (40) hours consisting of five (5) days of eight (8) hours each, Monday to Friday, inclusive.

2. If it becomes necessary, because of insufficient funds in the applicable appropriation for the payment of employees in any of the bureaus affected by this Agreement at any time during the year, and in order to provide insofar as practicable a forty (40) hour work week for each of the remaining weeks in the current year, a sufficient number of employees may be laid off on the basis of seniority and ability, provided that where ability in the opinion of the Employer is relatively equal, then seniority shall prevail, subject to review under the provisions of the section on 'Grievance Procedure' herein. The business agent of the union involved shall be advised of the intended lay-off and given the opportunity of review by the Employer.

3. Overtime for all employees shall be compensated for at the rate of time and one-half times the regular rate of pay and shall commence immediately upon the completion

of eight (8) hours of work on any work day, or five (5) days in any work week, except for work performed on Sunday which shall be double time."

AN ORDINANCE

To amend Section 1 of an ordinance approved October 29, 1951, entitled "An Ordinance establishing a standard work week for employees of the City of Philadelphia" by changing the composition of the standard work week.

Section 1. *The Council of the City of Philadelphia ordains*, That Section 1 of the ordinance approved October 29, 1951, entitled "An Ordinance establishing a standard work week for employees of the City of Philadelphia" is amended to read as follows:

"That on and after January 1, 1952, the standard work week of the employees of the City of Philadelphia and of the departments, bureaus, boards, commissions and other agencies thereof shall consist of forty hours of work."

Pennsylvania Constitution

ARTICLE III
LEGISLATION

* * * * *

Special and Local Legislation Limited

Section 7. The General Assembly shall not pass any local or special law

Authorizing the creation, extension or impairing of liens:

Regulating the affairs of counties, cities, townships, wards, boroughs or school districts:

Changing the names of persons or places:

Changing the venue in civil or criminal cases:

Authorizing the laying out, opening, altering or maintaining, roads, highways, streets or alleys:

Relating to ferries or bridges, or incorporating ferry or bridge companies, except for the erection of bridges crossing streams which form boundaries between this and any other State:

Vacating roads, town plats, streets or alleys:

Relating to cemeteries, grave yards, or public grounds not of the State:

Authorizing the adoption or legitimation of children:

Locating or changing county seats, erecting new counties or changing county lines:

Incorporating cities, towns or villages, or changing their charters:

For the opening and conducting of elections, or fixing or changing the place of voting:

Granting divorces:

Erecting new townships or boroughs, changing township lines, borough limits or school districts:

Creating offices, or prescribing the powers and duties of officers in counties, cities, boroughs, townships, election or school districts:

Changing the law of descent or succession:

Regulating the practice or jurisdiction of, or changing the rules of evidence in, any judicial proceeding or inquiry before courts, aldermen, justices of the peace, sheriffs, commissioners, arbitrators, auditors, masters in chancery or other tribunals, or providing or changing methods for the collection of debts, or the enforcing of judgments, or prescribing the effect of judicial sales of real estate:

Regulating the fees, or extending the powers and duties of aldermen, justices of the peace, magistrates or constables:

Regulating the management of public schools, the building or repairing of school houses, and the raising of money for such purposes:

Fixing the rate of interest:

Affecting the estates of minors or persons under disability, except after due notice to all parties in interest, to be recited in the special enactment:

Remitting fines, penalties and forfeitures, or refunding moneys legally paid into the treasury:

Exempting property from taxation:

Regulating labor, trade, mining or manufacturing:

Creating corporations, or amending, renewing or extending the charters thereof:

Granting to any corporation, association or individual any special or exclusive privilege or immunity, or to any corporation, association or individual the right to lay down a railroad track:

Nor shall the General Assembly indirectly enact such special or local law by the partial repeal of a general law; but laws repealing local or special acts may be passed:

Nor shall any law be passed granting powers or privileges in any case where the granting of such powers and privileges shall have been provided for by general law, nor where the courts have jurisdiction to grant the same or give the relief asked for.

Constitution of the United States

ARTICLE I.

* * * * *

Limitation of the Powers of the Several States

Section 10. No State shall enter into any Treaty, Alliance, or Confederation; grant Letters of Marque and Reprisal; coin Money, emit Bills of Credit; make any Thing but gold and silver Coin a Tender in Payment of Debts; pass any Bill of Attainder, ex post facto Law, or Law impairing the Obligation of Contracts, or grant any Title of Nobility.

AMENDMENT XIV

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.